

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1360 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 3-5-2-48 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 48. "State office" refers
5 to **the following:**
6 (1) **The** governor.
7 (2) **The** lieutenant governor.
8 (3) **The** secretary of state.
9 (4) **The** auditor of state.
10 (5) **The** treasurer of state.
11 (6) **The** superintendent of public instruction.
12 (7) **The** attorney general.
13 (8) Justice of the supreme court.
14 (9) Judge of the court of appeals. ~~and~~
15 (10) Judge of the tax court.
16 (11) **Beginning in 2012, member of the Indiana utility**
17 **regulatory commission.**
18 SECTION 2. IC 3-8-1-10.7 IS ADDED TO THE INDIANA CODE
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
20 1, 2009]: **Sec. 10.7. A candidate for the office of member of the**
21 **Indiana utility regulatory commission must have the qualifications**
22 **set forth in IC 8-1-1-2.1.**
23 SECTION 3. IC 3-8-1-33, AS AMENDED BY P.L.2-2005,
24 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2009]: Sec. 33. (a) A candidate for an office listed in
26 subsection (b) must file a statement of economic interests.
27 (b) Whenever a candidate for any of the following offices is also
28 required to file a declaration of candidacy or is nominated by petition,
29 the candidate shall file a statement of economic interests before filing
30 the declaration of candidacy or declaration of intent to be a write-in
31 candidate, before the petition of nomination is filed, before the
32 certificate of nomination is filed, or before being appointed to fill a

candidate vacancy under IC 3-13-1 or IC 3-13-2:

(1) Governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, **member of the Indiana utility regulatory commission**, and state superintendent of public instruction, in accordance with IC 4-2-6-8.

(2) Senator and representative in the general assembly, in accordance with IC 2-2.1-3-2.

(3) Justice of the supreme court, judge of the court of appeals, judge of the tax court, judge of a circuit court, judge of a superior court, judge of a county court, judge of a probate court, and prosecuting attorney, in accordance with IC 33-23-11-14 and IC 33-23-11-15.

SECTION 4. IC 3-8-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A political party shall conduct a state convention to nominate the candidates of the political party for the following offices to be voted on at the next general election:

(1) Lieutenant governor.

(2) Secretary of state.

(3) Auditor of state.

(4) Treasurer of state.

(5) Attorney general.

(6) Superintendent of public instruction.

(7) Member of the Indiana utility regulatory commission.

(b) The convention shall also:

(1) nominate candidates for presidential electors and alternate electors; and

(2) elect the delegates and alternate delegates to the national convention of the political party.

SECTION 5. IC 3-11-2-12, AS AMENDED BY P.L.146-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

(1) Federal and state offices:

(A) President and Vice President of the United States.

(B) United States Senator.

(C) Governor and lieutenant governor.

(D) Secretary of state.

(E) Auditor of state.

(F) Treasurer of state.

(G) Attorney general.

(H) Superintendent of public instruction.

(I) Member of the Indiana utility regulatory commission.

~~(J)~~ **(J)** United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there

- 1 is more than one (1) judge of the circuit court.
- 2 (B) Judge of the superior court, and unless otherwise
- 3 specified under IC 33, with each division separate if there
- 4 is more than one (1) judge of the superior court.
- 5 (C) Judge of the probate court.
- 6 (D) Judge of the county court, with each division separate,
- 7 as required by IC 33-30-3-3.
- 8 (E) Prosecuting attorney.
- 9 (F) Clerk of the circuit court.
- 10 (4) County offices:
- 11 (A) County auditor.
- 12 (B) County recorder.
- 13 (C) County treasurer.
- 14 (D) County sheriff.
- 15 (E) County coroner.
- 16 (F) County surveyor.
- 17 (G) County assessor.
- 18 (H) County commissioner.
- 19 (I) County council member.
- 20 (5) Township offices:
- 21 (A) Township assessor (only in a township referred to in
- 22 IC 36-6-5-1(d)).
- 23 (B) Township trustee.
- 24 (C) Township board member.
- 25 (D) Judge of the small claims court.
- 26 (E) Constable of the small claims court.
- 27 (6) City offices:
- 28 (A) Mayor.
- 29 (B) Clerk or clerk-treasurer.
- 30 (C) Judge of the city court.
- 31 (D) City-county council member or common council
- 32 member.
- 33 (7) Town offices:
- 34 (A) Clerk-treasurer.
- 35 (B) Judge of the town court.
- 36 (C) Town council member.
- 37 SECTION 6. IC 4-2-1-1.5, AS ADDED BY P.L.43-2007,
- 38 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 39 JULY 1, 2009]: Sec. 1.5. (a) Subject to subsection (b), the salary of the
- 40 state elected officials other than the governor is as follows:
- 41 (1) For the lieutenant governor, seventy-six thousand dollars
- 42 (\$76,000) per year. However, the lieutenant governor is not
- 43 entitled to receive per diem allowance for performance of duties
- 44 as president of the senate.
- 45 (2) For the secretary of state, sixty-six thousand dollars
- 46 (\$66,000) per year.
- 47 (3) For the auditor of state, sixty-six thousand dollars (\$66,000)
- 48 per year.
- 49 (4) For the treasurer of state, sixty-six thousand dollars (\$66,000)
- 50 per year.

(5) For the attorney general, seventy-nine thousand four hundred dollars (\$79,400) per year.

(6) For the state superintendent of public instruction, seventy-nine thousand four hundred dollars (\$79,400) per year.

(7) Beginning January 1, 2013, for a member of the Indiana utility regulatory commission, one hundred five thousand dollars (\$105,000) per year. The chairman of the commission is entitled to an additional five thousand dollars (\$5,000) per year.

(b) Beginning January 1, 2008, the part of the total salary of a state elected official is increased on January 1 of each year after a year in which the general assembly does not amend this section to provide a salary increase for the state elected official.

(c) The percentage by which salaries are increased under this section is equal to the statewide average percentage, as determined by the budget director, by which the salaries of state employees in the executive branch who are in the same or a similar salary bracket exceed, for the current state fiscal year, the salaries of executive branch state employees in the same or a similar salary bracket that were in effect on January 1 of the immediately preceding year.

(d) The amount of a salary increase under this section is equal to the amount determined by applying the percentage increase for the particular year to the salary of the state elected official, as previously adjusted under this section, that is in effect on January 1 of the immediately preceding year.

(e) A state elected official is not entitled to receive a salary increase under this section on January 1 of a state fiscal year in which state employees described in subsection (c) do not receive a statewide average salary increase.

(f) If a salary increase is required under this section, an amount sufficient to pay for the salary increase is appropriated from the state general fund.

SECTION 7. IC 4-2-6-8, AS AMENDED BY P.L.89-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The following persons shall file a written financial disclosure statement:

(1) The governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, **member of the Indiana utility regulatory commission**, and state superintendent of public instruction.

(2) Any candidate for one (1) of the offices in subdivision (1) who is not the holder of one (1) of those offices.

(3) Any person who is the appointing authority of an agency.

(4) The director of each division of the department of administration.

(5) Any purchasing agent within the procurement division of the department of administration.

(6) Any agency employee, special state appointee, former agency employee, or former special state appointee with final purchasing authority.

(7) An employee required to do so by rule adopted by the inspector general.

(b) The statement shall be filed with the inspector general as follows:

(1) Not later than February 1 of every year, in the case of the state officers and employees enumerated in subsection (a).

(2) If the individual has not previously filed under subdivision

(1) during the present calendar year and is filing as a candidate

for a state office listed in subsection (a)(1), before filing a

declaration of candidacy under IC 3-8-2 or IC 3-8-4-11, petition

of nomination under IC 3-8-6, or declaration of intent to be a

write-in candidate under IC 3-8-2-2.5, or before a certificate of

nomination is filed under IC 3-8-7-8, in the case of a candidate

for one (1) of the state offices (unless the statement has already

been filed when required under IC 3-8-4-11).

(3) Not later than sixty (60) days after employment or taking

office, unless the previous employment or office required the

filing of a statement under this section.

(4) Not later than thirty (30) days after leaving employment or

office, unless the subsequent employment or office requires the

filing of a statement under this section.

The statement must be made under affirmation.

(c) The statement shall set forth the following information for the preceding calendar year or, in the case of a state officer or employee who leaves office or employment, the period since a previous statement was filed:

(1) The name and address of any person known:

(A) to have a business relationship with the agency of the state officer or employee or the office sought by the candidate; and

(B) from whom the state officer, candidate, or the employee, or that individual's spouse or unemancipated children received a gift or gifts having a total fair market value in excess of one hundred dollars (\$100).

(2) The location of all real property in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children has an equitable or legal interest either amounting to five thousand dollars (\$5,000) or more or comprising ten percent (10%) of the state officer's, candidate's, or the employee's net worth or the net worth of that individual's spouse or unemancipated children. An individual's primary personal residence need not be listed, unless it also serves as income property.

(3) The names and the nature of the business of the employers of the state officer, candidate, or the employee and that individual's spouse.

(4) The following information about any sole proprietorship owned or professional practice operated by the state officer, candidate, or the employee or that individual's spouse:

(A) The name of the sole proprietorship or professional

- 1 practice.
- 2 (B) The nature of the business.
- 3 (C) Whether any clients are known to have had a business
- 4 relationship with the agency of the state officer or employee
- 5 or the office sought by the candidate.
- 6 (D) The name of any client or customer from whom the
- 7 state officer, candidate, employee, or that individual's
- 8 spouse received more than thirty-three percent (33%) of the
- 9 state officer's, candidate's, employee's, or that individual's
- 10 spouse's nonstate income in a year.
- 11 (5) The name of any partnership of which the state officer,
- 12 candidate, or the employee or that individual's spouse is a
- 13 member and the nature of the partnership's business.
- 14 (6) The name of any corporation (other than a church) of which
- 15 the state officer, candidate, or the employee or that individual's
- 16 spouse is an officer or a director and the nature of the
- 17 corporation's business.
- 18 (7) The name of any corporation in which the state officer,
- 19 candidate, or the employee or that individual's spouse or
- 20 unemancipated children own stock or stock options having a fair
- 21 market value in excess of ten thousand dollars (\$10,000).
- 22 However, if the stock is held in a blind trust, the name of the
- 23 administrator of the trust must be disclosed on the statement
- 24 instead of the name of the corporation. A time or demand deposit
- 25 in a financial institution or insurance policy need not be listed.
- 26 (8) The name and address of the most recent former employer.
- 27 (9) Additional information that the person making the disclosure
- 28 chooses to include.
- 29 Any such state officer, candidate, or employee may file an amended
- 30 statement upon discovery of additional information required to be
- 31 reported.
- 32 (d) A person who:
- 33 (1) fails to file a statement required by rule or this section in a
- 34 timely manner; or
- 35 (2) files a deficient statement;
- 36 upon a majority vote of the commission, is subject to a civil penalty at
- 37 a rate of not more than ten dollars (\$10) for each day the statement
- 38 remains delinquent or deficient. The maximum penalty under this
- 39 subsection is one thousand dollars (\$1,000).
- 40 (e) A person who intentionally or knowingly files a false statement
- 41 commits a Class A infraction.
- 42 SECTION 8. IC 8-1-1-2 IS AMENDED TO READ AS FOLLOWS
- 43 [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) There is created the Indiana
- 44 utility regulatory commission. ~~which shall consist~~ **The commission**
- 45 **consists** of five (5) members.
- 46 (b) At least one (1) ~~of whom shall~~ **commission member must be**
- 47 an attorney qualified to practice law before the supreme court of
- 48 Indiana and not more than three (3) ~~of whom~~ **commission members**
- 49 **may** belong to the same political party. **This subsection expires**
- 50 **January 1, 2013.**

~~(b)~~ **(c)** The ~~commission~~ members ~~of the commission~~ and all vacancies occurring ~~therein on the commission~~ shall be appointed by the governor from among persons nominated by the nominating committee in accordance with the provisions of IC 8-1-1.5. **This subsection expires January 1, 2013.**

~~(c)~~ **(d)** The members may be removed at any time by the governor for cause. **This subsection expires January 1, 2013.**

~~(d)~~ **(e)** **Before January 1, 2013,** the governor shall appoint one (1) member as chairman. **After December 31, 2012, the members shall elect the chairman not later than January 31 of each odd numbered year. The chairman may be reelected to a new term.**

~~(e)~~ **(f)** The ~~commission~~ members ~~of the commission~~ shall be appointed for a term of four (4) years, except when a member is appointed to fill a vacancy, in which case such appointment shall be for such unexpired term only. All members of ~~said the~~ commission shall serve as such until their successors are duly appointed and qualified. ~~and while so serving~~ **The term of office of a commission member appointed under this subsection expires January 1, 2013. Beginning with the general election of 2012, members of the commission shall be elected as provided in section 2.1 of this chapter. This subsection expires July 1, 2013.**

(g) A **commission member** shall devote full time to the duties of the commission and shall not be actively engaged in any other occupation, profession, or business that constitutes a conflict of interest or otherwise interferes with carrying out ~~their the member's~~ duties. ~~as commissioners.~~

~~(f)~~ **(h)** A ~~commission~~ member ~~of the commission~~ or any person appointed to any position or employed in any capacity to serve the commission, may not have any official or professional relationship or connection with, or hold any stock or securities or have any pecuniary interest in any public utility operating in Indiana.

~~(g)~~ **(i)** Each ~~commission~~ member ~~appointed to the Indiana utility regulatory commission~~ shall take and subscribe to an oath in writing that ~~he the member will:~~

(1) faithfully perform the duties of ~~his~~ office; and

(2) support and defend to the best of ~~his the member's~~ ability the Constitution and laws of the state of Indiana and of the United States of America. ~~and such~~

Each member's oath shall be filed with the secretary of state.

~~(h)~~ **(j)** The chairman of the commission shall assign cases to the various ~~commission~~ members ~~of the commission~~ or to administrative law judges for hearings.

SECTION 9. IC 8-1-1-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.1. (a) Beginning with the general election in November of 2012, commission members shall be elected as provided in this section.**

(b) Candidates for election to be members of the commission shall be nominated as provided in IC 3-8-4-2 or IC 3-8-6.

(c) A candidate for election to be a member of the commission:

(1) must have resided in Indiana for at least two (2) years before the election; and

(2) may not have:

(A) an official or a professional relationship or connection with; or

(B) hold any stock or securities or have a pecuniary interest in;

a public utility operating in Indiana.

(d) The members of the commission shall be elected at large by all the voters of the state. Each voter may vote for the number of commission members to be elected at the election.

(e) The following candidates shall be elected at the election:

(1) If three (3) candidates are to be elected, the following candidates are elected to the commission:

(A) The candidate who receives the greatest number of votes.

(B) The candidate who receives the greatest number of votes less than the candidate described in clause (A).

(C) The candidate who receives the greatest number of votes less than the candidate described in clause (B).

(2) If two (2) candidates are to be elected, the following candidates are elected to the commission:

(A) The candidate who receives the greatest number of votes.

(B) The candidate who receives the greatest number of votes less than the candidate described in clause (A).

(f) A candidate elected to the commission serves a term of four (4) years, beginning January 1 after the date of the candidate's election.

SECTION 10. IC 8-1-1-2.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.2. (a) This section applies to the election of commission members at the November 2012 general election.

(b) Five (5) members of the commission shall be elected at the election. The following candidates are elected:

(1) The candidate who receives the greatest number of votes.

(2) The candidate who receives the greatest number of votes less than the candidate described in subdivision (1).

(3) The candidate who receives the greatest number of votes less than the candidate described in subdivision (2).

(4) The candidate who receives the greatest number of votes less than the candidate described in subdivision (3).

(5) The candidate who receives the greatest number of votes less than the candidate described in subdivision (4).

(c) Notwithstanding section 2.1 of this chapter, the terms of the candidates are as follows:

(1) The candidates described in subsection (b)(1) through (b)(3) each serve a term of four (4) years, beginning January 1, 2013.

(2) The candidates described in subsection (b)(4) through

(b)(5) each serve a term of two (2) years, beginning January 1, 2013.

(d) This section expires January 1, 2017.

SECTION 11. IC 8-1-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The members of the commission shall meet and organize the commission. The commission may:

(1) before January 1, 2013, subject to the approval of the governor, appoint a secretary of the commission; **and**

(2) after December 31, 2012, appoint a secretary of the commission.

(b) The salaries of the members and secretary of the commission shall be fixed by the governor, subject to the approval of the budget agency; however, the salaries of the chairman and the members shall not be less than the following annual minimum amounts:

(1) For the chairman, sixty-five thousand dollars (\$65,000).

(2) For the members, sixty thousand dollars (\$60,000) each.

This subsection expires January 1, 2013.

(c) The commission may appoint one (1) or more administrative law judges who shall be responsible to and serve at the will and pleasure of the commission. While serving, the administrative law judges shall devote full time to the duties of the commission and shall not be actively engaged in any other occupation, profession, or business that constitutes a conflict of interest or otherwise interferes with carrying out their duties as administrative law judges. The salary of each administrative law judge shall be fixed by the commission subject to the approval of the budget agency but may not be less than the following annual amounts:

(1) For the chief administrative law judge, forty-five thousand dollars (\$45,000).

(2) For all other administrative law judges, forty thousand dollars (\$40,000).

(d) A majority of the commission members shall constitute a quorum.

(e) On order of the commission any one (1) member of the commission, or an administrative law judge, may conduct a hearing, or investigation, and take evidence therein, and report the same to the commission for its consideration and action; however, a hearing concerning a request for a general increase in the basic rates and charges of a utility in an amount exceeding twenty million dollars (\$20,000,000) may only be conducted by one (1) or more commission members.

(f) Each member of the commission shall give bond in the sum of ten thousand dollars (\$10,000) for the faithful performance of his duties. Such bond shall be filed with the secretary of state.

(g) The commission shall formulate rules necessary or appropriate to carry out the provisions of this chapter, and shall perform the duties imposed by law upon them.

(h) The commission may:

(1) before January 1, 2013, employ, with the approval of the

1 governor and the state budget agency; **and**
 2 **(2) after December 31, 2012, employ;**
 3 sufficient professional staff, including but not limited to specialists,
 4 technicians, and analysts, who are exempt from the job classifications
 5 and compensation schedules established under IC 4-15. ~~and~~
 6 ~~(2)~~ **(i) The commission may** purchase, lease, or otherwise acquire
 7 for its internal use sufficient technical equipment necessary for the
 8 commission to carry out its statutory duties.
 9 SECTION 12. IC 8-1-1.5-11 IS ADDED TO THE INDIANA
 10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2009]: **Sec. 11. This chapter expires January**
 12 **1, 2013."**
 13 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1360 as printed April 10, 2009.)

Senator SIMPSON